

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

June 17-21, 2002

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
6-11**	EX	75/480,544	Leslie A. Finkelstein	Seeherman* Walters Drost	2(e)(1); genericness; whether, if not inherently distinctive but not generic, applicant's mark has acquired distinctive-ness under Section 2(f)	Refusal Affirmed, but only on the grounds that applicant's mark is merely descriptive and without acquired distinctive-ness		"DISCOUNT DECORATING OUTLET" (in stylized lettering on a black rectangular background) [retail store services, featuring home decorating supplies and accessories]		Oslick	No
6-11**	EX	76/082,645	American Library Association	Seeherman* Quinn Hairston	2(d)	Refusal Affirmed		"ALA EDITIONS" [a series of fiction and nonfiction books on a variety of topics]	"ALA" [educational services, namely, providing instruction by classes, residential school programs and the like, to others for development of English language skills and cultural background, and the training of teachers and development of multi-media materials for such instruction]	B. Smith	No
6-18	EX	75/897,698	Tomorrow Inter-national, Inc.	Cissel* Walters Drost	2(e)(1)	Refusal Affirmed		"THE TRACK & FIELD STORE" [athletic clothing, namely, shorts, jerseys, jackets, swimsuits, t-shirts, tights, pants, vests, tanks, hip-pockets, and tops]		Singleton	No

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

**Inadvertently omitted from the Summary of Final Decisions for the week of June 10-14, 2002

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6-18	EX	76/000,138	Gi-Go Toys Factory Ltd.	Hanak Bucher Drost*	2(d)	Refusal Affirmed		"MY LITTLE DREAM GIRL" [dolls and doll accessories]	"DREAM GIRL" [dolls, doll clothing, and doll accessories]	R. Smith	No
6-18	EX	75/892,964	Dennis Drake	Cissel Seeherman* Chapman	2(d)	Refusal Affirmed		"THEN AND NOW" [prerecorded audio cassettes, compact discs and videotapes featuring the historical development and current condition of various cities; downloadable video and audio recordings, both featuring the historical development and current condition of various American cities]	"NEW YORK THEN AND NOW" [entertainment services, namely, a series of short television programs about New York City historical landmarks and points of interest]	B. Brown	No
6-18	CANC CANC	27,885 28,047	Arleen Freeman v. National Association of Realtors	Simms* Quinn Wendel	genericness; affirmative defense of licensee estoppel	Petition to Cancel Denied in both cases on the basis of licensee estoppel; the Board "need not decide the substantive issue of genericness"		"REALTOR" and "REALTORS" [collective membership mark registrations, indicating registrant's exercise of legitimate control over use of the marks for "brokerage of real estate, industrial brokerage, farm brokerage, mortgage brokerage, in the appraisal of real estate, management of real estate, in the building of structures on real estate, in the subdivision of real estate properties, and in community planning for the development of raw land and slum clearance areas]			Yes

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6-18	EX	75/813,280	CCC Acquisition Corp.	Seeherman* Hairston Drost	2(d)	Refusal Affirmed		"OCEAN GEAR" [pants, shirts, shorts and swimtrunks]	"OCEAN" [men's swimming trunks; bathing suits for women and juniors; bathing caps and pool caps for women, men and juniors; men's and ladies' terry cloth robes; and warm up suits and sweat suits]	Oslick	No
6-18	EX	75/738,726	American Power Source, Inc.	Seeherman* Walters Chapman	2(d)	Refusal Reversed		"DRI-DOC" [fabric for use in the further manufacture of clothing, namely, uniforms, jackets, pants, jogging suits and vests, all of the foregoing sold to government for use in the military; fabrics sold as a component of completed clothing, namely, uniforms, jackets, pants, jogging suits and vests, all of the foregoing sold to government for use in the military]	"DRY DOCK BY SERBIN" (and design) [men's and women's all-weather coats, raincoats and jackets]	Collins	No

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6-19	EX EX	75/766,621 75/766,623	The Board of Regents of the University of Nebraska of Varner Hall	Hohein Chapman* Wendel	Section 6 disclaimer requirement (of the word CLASS)	Refusal Affirmed in both cases		<i>two applications to register a mark comprising a stylized letter "C," the words "CLASS.COM," and a design feature [the goods and services recited in the first of the two applications are: educational software featuring courses of instruction at the high school level rendered remotely via a global computer network on a private, independent-study, single-student basis and educational services, namely, providing courses of instruction at the high school level rendered remotely via a global computer network on a private, independent-study, single-student basis; the goods recited in the second application are: printed instructional materials, namely, instructional course materials in the field of high school equivalency diploma certification and high school education for use in connection with courses of instruction rendered remotely via a global computer network on a private, independent-study, single-student basis]</i>		R. Smith	No

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6-20	EX	75/586,074	RENCO Encoders Inc.	Seeherman Walters* Holtzman	2(e)(1)	Refusal Affirmed		"SUPERSENSOR" [longitudinal and angle measuring apparatus, namely, linear, rotary and angle encoders; electrical controllers for the aforementioned goods]		Faint	No
6-20	EX	78/016,669	Supre, Inc.	Seeherman* Walters Wendel	2(e)(1)	Refusal Reversed		"HEMPZ" [skin care preparations, namely, non-medicated indoor and outdoor tanning preparations and moisturizers]		I. Williams	No
6-20	EX	75/579,579	KAST, Inc.	Hohein* Walters Wendel	2(d)	Refusal Affirmed		"KARATE AMERICA" (and design) [karate instruction, and the organization and conducting of karate competitions and demonstrations]	"KARATE AMERICA WHERE EVERY FAMILY IS SPECIAL" (and design) [karate instruction]	Oslick	No
6-20	EX	75/867,074	Bradley Hicks	Seeherman* Bucher Bottorff	2(d)	Refusal Affirmed		"420 FOURTWENTY" (in stylized form) [t-shirts, pants, shorts, underwear, tanktops, sweatshirts, sweaters, and hats]	"420" (in stylized form) [t-shirts, hats, shorts, polo shirts, sweat shirts, and jackets]	D. Lee	No
6-21	EX	75/205,892	GCS Group, Inc.	Seeherman Hanak Rogers*	2(d)	Refusal Affirmed		"RES-A-TRACK" [computer software for use in managing a database of health care providers, scheduling personnel and reporting to government agencies to facilitate reimbursement]	"RESTRACK 2000" [computer software program for documenting resident care in medical and nursing facilities]	Santo-martino	No

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6-21	EX	75/795,272	F. Merrill Matlovich	Seeherman Hohein Wendel*	2(e)(1)	Refusal Affirmed		"SEX" [computerized online retail store services bringing together, for the benefit of others, a variety of adult oriented products, namely, adult novelties and toys, marital aids, erotica, and lingerie available via a global computer network]		Suarez	No
6-21	CU (SJ)	1,169	Nutrition Care Systems, Inc. v. NCS HealthCare, Inc.	Wendel Bucher Rogers [Opinion "By the Board" (Zervas)]	whether concurrent use applicant is entitled to concurrent use registration for its claimed territory	Concurrent Use Proceeding Dissolved (Concurrent Use Registration Denied) [Registrant's motion for summary judgment granted]	"NCS" [dietary consulting services, namely, nutrition management services, food management consulting, and menu services for health care facilities] — <i>concurrent use application for registration of the mark for the geographic area consisting of the states of Illinois, Wisconsin, Iowa, and Missouri</i>	"NCS" and "NCS HEALTHCARE" (in stylized form) [both marks for health care services, namely, pharmacy consulting in the field of health care plans; nutritional services, namely, operating diet kitchens for nursing facilities and health care facilities; rehabilitation services; infusion therapy services; medical home care services; pharmacy psychiatric consulting services; consulting services directed to Medicare part B patient and health care services; environmental consulting services; and consulting in the field of building and physical plant security measures]			No

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